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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,354	08/20/2001	Steven O. Markel	2050.087US1	7832
44367 7590 03/11/2011 SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938				
EXAMINER LU, SHIRLEY				
ART UNIT 2612		PAPER NUMBER		
NOTIFICATION DATE 03/11/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com  
request@slwip.com

**Office Action Summary****Application No.**

09/934,354

**Applicant(s)**

MARKEL, STEVEN O.

**Examiner**

SHIRLEY LU

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Response to Arguments**

a. Applicant argues starting on page(s) 8, that the prior art does not specifically disclose the newly amended limitations.

In response, please see action below.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claim(s) 7-10, 15, 18-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackketer (20020056129) in view of “Using a Browser Sniffer to Detect WebTV” (“the WebTV reference”), which was appended to the Board’s decision.**

As to claim 7, 15,

Blackketer disclose(s):

A method to deliver enhanced content to a set-top box, the method comprising: receiving a trigger included in a video signal input at the set-top box for indicating that enhanced content is available; establishing a communication link between a server and said set-top box; receiving the enhanced data content by said set-top box for generation of an enhanced display (fig. 1-3; [0001-2]; [0031]; see also Board’s decision starting on page(s) 5).

The above art/combination does not expressly disclose the server hosting different versions of enhanced content compatible with a plurality of different types of set-top boxes; sending a signal from said set-top box to said server through said communication link; decoding a signal header at said server; based on the decoded signal header, establishing the set-top box type; transmitting the enhanced content corresponding to the type of the set-top box.

Provisional 60/227062 disclose(s): different versions of enhanced content compatible with different types of systems (page(s) 1-2).

The WebTV reference disclose(s): the server hosting different versions of enhanced content compatible with different types of systems; different versions of enhanced content compatible with a different types of systems; a version for WebTV and another version for other users (page(s) 1-2).

The WebTV reference disclose(s): sending a signal from said set-top box to said server through said communication link; decoding a signal header at said server; based on the decoded signal header, establishing the set-top box type; transmitting the enhanced content corresponding to the type of the set-top box (page(s) 1-2; see also Board's decision dated 9/20/10, starting on page(s) 5).

It would have been obvious to one of ordinary skill in the art to modify the above art/combination to teach the claimed limitations, to suit the needs of a based on the characteristics of the system, such that the system is based on criteria desired by the user, and to have a useful tool for customizing a Web site to various categories of users whereby one could deliver a certain Web page(s) to a WebTV view and a different page(s) to other viewers, and to allow different versions to be utilized for different systems.

As to claim 17,

The server responds to said signal from said set-top box and only transmits a version of the enhanced content compatible with the type of said set-top box (see claim(s) 7, 15).

As to claim 8, 18, Blackketter disclose(s):

said trigger is located in the vertical blanking interval of the video signal input ([0004]).

As to claim 9, 19, Blackketter disclose(s):

said trigger is a command string written in Advanced Television Enhancement Forum compliant code ([0033]).

As to claim 10, 20, Blackketter disclose(s):

said communication link is Hyper Text Transfer Protocol (fig. 4).

### **Conclusion**

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Lu whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shirley Lu/  
Primary Examiner, Art Unit 2612